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Sunday, June 12, 2005

## Jury duty can create hardships, but the process is key to a free society

*More than 7,000 people in Allegan and Ottawa counties serve*

By **RICHARD HARROLD** | Staff writer

Each year, more than 7,000 people in Ottawa and Allegan counties are called for jury duty. Which means that odds are sooner or later, if you have a driver's license, you'll be called for jury duty some time. When it may happen can be anyone's guess. Some people are never called, while others are repeatedly called.

"I've been called three times in five years," said Lisa Horrocks of Holland, whose most recent stint as a juror put her on a criminal case in circuit court in Grand Haven last winter.

When Horrocks received her third notice in the last 10 years she lived in Holland, she wasn't excited.

"I thought, 'Oh no, not again,'" Horrocks said. But the 38-year-old legal assistant recognized, like many others, that jury duty is an important responsibility.

Identified through driver's licenses and state identification cards, prospective jurors are called by the hundreds each month from all walks of life to fulfill defendants' rights to trial by jury -- a right enshrined in the Sixth Amendment to the U.S. Constitution.

Nonetheless, a lack of enthusiasm is not an uncommon response among area residents who get the call.

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JUDGE: Ottawa County Chief Judge Ed Post stands next to a jury box at the county building in Grand Haven. Jury duty is important to a free society, he said.

*Andy Loree photo*

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"My first reaction was that it would be an inconvenience with my work and kids," said Julie VanHoof of Zeeland Township. VanHoof was in the jury box for two cases in January -- one a civil lawsuit and the other a criminal trial.

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But when the call comes, it's best to take it seriously because failure to comply with jury duty can result in fines and even jail.

"The people basically respond well," said Allegan County Circuit Judge Harry Beach. But there are always some people who feel that they don't need to comply, he said. "It's not something you can ignore (notice of jury duty), and it's not something that we're going to ignore (no-shows)."

Names identified for receiving jury calls come from the Secretary of State's database.

"We serve 5,000 people every year," Ottawa County Clerk Daniel Krueger said.

In Allegan County, 2,800 residents receive notices for jury duty each year, Allegan County Deputy Clerk Joan Nagel said.

Like others, Horrocks received her notification in the mail. Residents have 10 days to complete and return a questionnaire that accompanies the notice, which is reviewed by a three-person jury review board.

That form asks if you have any prior criminal record, some questions about your background and if there are any reasons you might not be able to serve on a jury. After completing and returning the form, Horrocks said you wait.

"If you don't qualify, they don't call you," she said. "I waited for a few months and I began to think I might not get called. But then the call eventually came."

When called, jurors go through an orientation and then sit for jury selection for a trial that day. If not selected that day, the juror returns home and waits for another notice in the mail that instructs them to make calls each morning to see if they must report.

"It can be a little frustrating," Horrocks said.

That's because a potential juror's life gets put on hold. Prospective jurors have to tell their employers they might get called any day, and unless vacation plans had already been made, no plans can be made until after the jury term ends, which can last up to three months.

"Jury duty does create a hardship for almost everyone," said Ottawa County Chief Judge Edward Post.

"But jury duty is also one of the most important responsibilities for a free society," Post said.

Judges are generally willing to work with prospective jurors, rescheduling jury duty for other times to accommodate vacations and other planned activities.

"We're quite liberal about that," Post said.

And some people can be excused entirely from serving, usually because of medical reasons or because of a disability such as a hearing or visual impairment. But even

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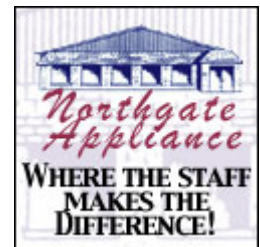
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police officers have to serve on a jury from time to time.

"They can hear civil cases," Post said.

But that's not to say that some people don't try to get out of jury duty. Once the notice letters go out, the letters start coming back filled with excuses not to serve, Post said.

Post said he reviews each of those letters individually.

People do come up with some wild excuses.

Post said that one time he received a letter filled with racial and ethnic slurs and epithets from someone who asserted that he couldn't be a juror. Post refused to dismiss him and made the man report anyway, but the man didn't show up. "I asked him if he really felt the way he expressed in his letter, and he said no, he didn't think that way," Post said. "So I asked him why did he write that, and he said he really didn't want to serve and he asked other people what he should do, and that's what other people told him he should do to get out of jury duty. I put him in jail for three days."

Reporting for jury duty doesn't automatically mean hearing a trial. Many potential jurors are eliminated by attorneys who use a screening process called voir dire. In voir dire, prosecutors and defense attorneys ask potential jurors about their possible knowledge of the case and any of the people involved and any other factors that might affect their judgment of the case.

During this process, attorneys get a limited number of chances to dismiss a juror from serving without having to say why, the number usually being agreed on prior to trial. The attorneys get unlimited "for cause" dismissals, but with these, the attorney has to explain to the judge why a juror should be dismissed and the judge has to agree with the reason.

"You question jurors and hold them to the standard that they will be impartial," said Allegan defense attorney Matt Antkoviak.

This questioning can appear to be very personal and probing about one's background, but that's the point, said Marj Russell, a criminal law professor at Thomas Cooley Law School in Lansing.

"It's a pretty difficult thing for most people to be in a situation in which they're asked a lot of personal questions in front of a lot of people," Russell said. "But attorneys do this to look for potential bias and prejudice."

One issue attorneys face in both Ottawa and Allegan counties -- where the vast majority of residents are white -- is the question of race when representing a minority client. And jurors may not even be aware of the biases they have.

"I think it's an obvious issue," Antkoviak said. One way around that, he said, is to seek jurors with similar life experiences, a technique Russell agrees can be helpful.

"It can be tough representing an African-American client in front of an all-white jury," Russell said. "Most people don't want to admit they may have those kinds of feelings."

Seeking jurors with similar life experiences to a defendant can be a useful strategy for defense attorneys, as Antkoviak suggested.

In fact, it's not necessarily harmful to either a defendant facing drunken driving charges or the prosecution to have someone on the jury with a drunken driving conviction, Russell said.

"A lot of times, people with similar experiences can be helpful," Russell said.

After her experience on a jury, VanHoof agreed.

"Your own personal experiences do come into play," she said. "I don't know if that is right or wrong, but your own life experiences do have an influence."

Another issue that can be problematic with jurors is the phenomenon that has quickly become known as the "CSI factor" from the popular television show "CSI" -- the influence of television programming, such as police shows that emphasize the importance of forensic and DNA evidence, has on a juror's expectations.

"What they show on television and what happens in real life is pretty far apart," Russell said. These television shows can cause jurors to have overly high expectations about the type of evidence presented in a case.

"Which can be not very fair of jurors because there are other ways to prove something than with forensic tests or DNA."

Then, after hearing all the evidence, comes the jury's task to consider that evidence and decide which side in a civil case was the most effective presenting its case, or in a criminal case, whether a defendant is guilty of the charges he or she faces.

"It's kind of funny how you find out when you get into that little room that there are 12 different people with 12 different perspectives on what the evidence meant," VanHoof said. "We took an immediate vote just to see where everyone stood. It wasn't unanimous."

VanHoof said it can be frustrating for jurors as they attempt to reach a consensus.

But reach a resolution they do, because, by and large, area judges and attorneys believe that jurors take their responsibility seriously.

"You realize that after being involved, you get a different perspective of how the system works," VanHoof said. "I guess it gives you a little more respect for the process."

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